

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

KEITH NOLLIE,

Plaintiff

V.

TDCJ-STATE CLASSIFICATION,

Defendant.

Civil Action No. 5:23-cv-74-RWS-JBB

ORDER

Plaintiff Keith Nollie, proceeding *pro se*, filed the above-captioned civil action complaining of alleged deprivations of his constitutional rights. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

Plaintiff complained of the conditions of confinement at the Telford Unit, requesting a transfer out of that unit and placement in protective custody. Docket No. 1 at 4. The Magistrate Judge ordered Plaintiff to file an amended complaint setting out a short and plain statement of his claim, as required by FED. R. CIV. P. 8. Docket No. 6. When Plaintiff did not comply, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 9.

A copy of this Report and Recommendation was sent to Petitioner at his last known address, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Co. of Canada*, 931 F.3d 412, 420–21, 421 n.9 (5th Cir. 2019).

Because no objections have been filed, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville*, 858 F.3d 348, 352

(5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this cause and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report and Recommendation of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report and Recommendation are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket. No. 9) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-captioned case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that any pending motions in the above-captioned case (including Docket Nos. 2, 4) are **DENIED-AS-MOOT**. A final judgment will be entered in this case in accordance with this Order.

So ORDERED and SIGNED this 4th day of March, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE